

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

OLIVIA Y., ET AL.

PLAINTIFFS

VERSUS

NO. 3:04CV251

HALEY BARBOUR, AS GOVERNOR OF THE
STATE OF MISSISSIPPI, ET AL.

DEFENDANTS

VIDEOTAPED DEPOSITION OF DEB BIGGERS

TAKEN AT INSTANCE OF PLAINTIFFS
IN THE OFFICES OF BRADLEY ARANT ROSE & WHITE, LLP
JACKSON, MISSISSIPPI
APRIL 17, 2006
BEGINNING AT APPROXIMATELY 9:00 A.M.

APPEARANCES NOTED HEREIN.

REPORTED BY: Laurie Abraham
Court Reporter and Notary Public
CSR #1143

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Madison, Mississippi 39110
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1 formerly the Department of Economic and Community
2 Development.

3 Q. And what was the job that you referred
4 to in 1996?

5 A. In 1996 I moved to the director of the
6 Office of Budget and Fund Management, my current
7 position.

8 Q. And have you been the director of the
9 Office of Budget and Fund Management since 1996?

10 A. I have.

11 Q. What is the Department of Finance and
12 Administration?

13 A. DFA is the administrative agency in
14 state government that performs all of the
15 financial matters necessary for state government,
16 including the production of warrants or checks,
17 if you will.

18 BY MR. PISKORA: Could you read back
19 the answer.

20 (Reporter reads back answer.)

21 Q. Okay. And when you say that DFA is the
22 administrative agency responsible for these
23 things, are you saying that there's no agency of
24 Mississippi state government that is more senior
25 to DFA in regard to fiscal matters?

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1 BY MR. FORTENBERRY: Object to form.
2 You can go ahead and answer.

3 A. I'm not sure I understand your
4 question. Could you -- could you restate it.

5 Q. Sure. What I'm trying to get at is,
6 there are other agencies that we've had some
7 testimony from -- for instance, Peter Boulette
8 testified from the office of budget and
9 accounting in DHS, and he testified at some
10 point -- and I'm just giving you background. I
11 don't want to be quoting it exactly -- testified
12 that he worked with your office in regard to the
13 budget and fiscal matters in some regard. And
14 I'm just wondering, is there a -- is there a
15 department that is more senior to the Department
16 of Finance and Administration in Mississippi
17 state government that DFA ultimately reports to?

18 A. We are an executive agency. We are
19 under the governor's policy direction.

20 Q. Okay. And so the only person that DFA
21 would report to would be the Governor?

22 A. Yes, sir.

23 Q. Can you tell me what is the
24 responsibility of the Office of Budget and Fund
25 Management.

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1 A. Our function is to administer the
2 enacted budget, the budget that is passed by the
3 legislature.

4 Q. Is that it?

5 A. We also serve as the Governor's budget
6 office insofar as the preparation of his
7 executive budget recommendation.

8 Q. And do you monitor the budget after
9 it's been put in place?

10 A. That is our function to --

11 Q. Okay.

12 A. -- to administer and control the
13 enacted budget.

14 Q. And in regard to the budgeting process
15 in -- strike that.

16 When you're developing a budget, it's
17 your responsibility to create a budget that
18 reflects the Governor priorities, correct?

19 A. Yes, sir.

20 Q. Okay. And in developing the budget, do
21 you do forecasting?

22 A. Forecasting of --

23 Q. Do you do any forecasting?

24 A. And if I may clarify, what we develop
25 and assist the Governor with is the development

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1 and publication of his budget recommendation.

2 Q. I understand your clarification.

3 A. Okay.

4 Q. And we'll see some documents that I
5 think will make that quite clear.

6 A. (Witness nods head affirmatively.)

7 Q. But what I -- I think I asked a
8 slightly different question. The question was,
9 in preparing the budget recommendation of the
10 Governor, do you do any forecasting?

11 A. We do forecast revenues and assist the
12 state fiscal officer insofar as forecasting
13 potential revenues, general fund revenues for the
14 state. That is one of the components of the
15 preparation of the legislative budget
16 recommendation and the executive budget
17 recommendation.

18 Q. Okay. And do you do any forecasting
19 other than the state revenues?

20 A. Forecasting, no, sir.

21 Q. No. Okay. And in regard to the state
22 revenue forecast, who do you work with to develop
23 that?

24 A. We work internally within DFA. Our
25 office will prepare our best projections. The

4 (Pages 10 to 13)

Page 18

1 question.

2 Does -- does the Office of Budget and
3 Fund Management have any involvement in the
4 preparation of this estimate?

5 A. On some years, we prepare an estimate
6 at the same time that Mr. Lucius prepares an
7 estimate; not in all years.

8 Q. And why does your office prepare a
9 separate estimate?

10 A. To compare.

11 Q. And what happens if there's some
12 discrepancy between the two estimates?

13 A. Well, there generally is a difference
14 between the two estimates because we do it by
15 source of revenues, source of general fund
16 revenue by type of taxes. So -- and I mentioned
17 the range earlier. At that -- at that point the
18 state fiscal officer has a range to look at when
19 working with the revenue estimating committee
20 insofar as adopting a revenue estimate.

21 Q. And in what years did the Office of
22 Budgets and Fund Management prepare a separate
23 estimate than the bond advisory division?

24 A. I would say, if memory serves me
25 correctly, the last two.

Page 19

1 Q. And if you could, just generally
2 describe to me how the two estimates get
3 reconciled.

4 A. The numbers are placed on a piece of
5 paper. The state fiscal officer takes those to a
6 meeting and in the discussion of the revenue
7 estimating committee, which is a six-member
8 group, each person presents their ideas insofar
9 as revenue and then they come to a consensus.

10 Q. So no consensus is reached at DFA prior
11 to its admission to this committee?

12 A. No, sir.

13 Q. Okay.

14 BY MR. PISKORA: Just put a request on
15 the record. I'm not sure that we have
16 received these general estimates of the state
17 fund so I'd call for their production now.

18 BY MR. FORTENBERRY: And as in the
19 previous depositions, just send me a request
20 so I'll know what it is.

21 BY MR. PISKORA: Fair enough.

22 Q. We've been talking generally about the
23 estimates of state fund revenues that might be
24 available for a future budget request, correct?

25 A. Yes, sir.

Page 20

1 Q. And do you do any forecasting of the
2 amount of federal or special funds that the state
3 would be able to draw down?

4 A. No, sir. The forecast of federal funds
5 is done, generally speaking, on an agency level
6 and state funds are tracked and reported --
7 state -- special fund balances are recorded by
8 the State Treasurer's office.

9 Q. I understand your answer. So in this
10 case we're dealing with DHS, have you ever seen a
11 forecast of the amount of federal funds that
12 could be drawn down in any given year based on
13 their level of state funding?

14 A. Their federal funds forecast, if you
15 will, is a part of their Mississippi budget
16 request.

17 Q. I understand your answer, but there's
18 been some testimony in this case that the federal
19 or special fund element of the budgetary request
20 is not forecast. So I'm wondering, have you seen
21 any document whatsoever about a calculation of
22 how much the department could realistically draw
23 down in federal funds?

24 A. I have not seen a calculation, per se.

25 In every budget request, an agency presents their

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1 general funds request and their federal funds
2 request, including a special fund detail that
3 indicates anticipated revenues of federal and
4 other special funds.

5 Q. I think I understand your answer, but
6 let me just try and clarify it for myself. When
7 you receive the agencies' budget requests which
8 includes the special fund detail and the detail
9 of federal funds that would be part of those
10 special funds, is it your understanding that the
11 agency has done some sort of forecast or
12 calculation that this is how much special funds
13 they could be able to draw down with the budget
14 allocation they're requesting in state funds?

15 A. Yes, sir.

16 Q. Okay. Can I show you a document now
17 that I got just off the website. I'm going to
18 have the court reporter mark it so we just have
19 it in the record.

20 BY MR. PISKORA: And, Rusty, I think
21 that we were just continuing the deposition
22 exhibits. And I was advised that we are
23 maybe up to 178. Do you have a different
24 number?

25 BY MR. FORTENBERRY: We had two

6 (Pages 18 to 21)

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1 A. I think the major component of the
2 request was for social workers, but there was
3 another component that was not. I just do not
4 recollect what that was for.
5 Q. Okay. And when the agency submits a
6 revised budget request, don't they have to give a
7 justification for the revision?
8 A. They do.
9 Q. And did they do so in this case?
10 A. They -- DHS never revised its
11 Mississippi budget request, officially.
12 Q. Okay. How did they do it?
13 A. When -- in planning for the council
14 meeting, the Governor had asked them if they had
15 any need to make any revisions in their request.
16 So which is not uncommon during the session, they
17 did an additional request but never officially
18 revised their budget request form.
19 Q. I see. So the budget request form that
20 usually contains a justification for budget
21 increases was never revised?
22 A. Right.
23 Q. Okay.
24 A. Not the standard form, no, sir.
25 Q. Well, was another form submitted?

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1 A. They utilized an Excel spreadsheet.
2 The executive agencies utilized an Excel
3 spreadsheet to show what their original MBR
4 request was and any revisions that they had to
5 make during the session.
6 Q. Okay. Can you just tell me generally
7 the process that your office goes through after
8 it receives all the budget requests from the
9 various state agencies in accumulating those to
10 form an executive budget?
11 A. What we do is, we divide up the budget
12 requests by analysts. The analysts go through
13 and look at critical needs, look at nonrecurring
14 expenditures from one year to the next. In years
15 where the revenues have not kept up -- or we've
16 had revenue shortfalls, doing the budget is a
17 little different than in years when we have a lot
18 of available revenue to work with.
19 So for the past several years, we've
20 looked at trying to maintain level funding for
21 agencies and then taking a very limited pool of
22 resources and trying to address the critical
23 needs posed in the recommendation. We furnish a
24 copy of the budget request to the policy advisors
25 in the Governor's office and work with them in

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1 answering any questions that they have about
2 their needs or their requests.
3 Q. Okay. And would it be fair to say,
4 then, that the requests in total -- the amount of
5 the requests in total that your office receives
6 from the various state agencies often goes above
7 the amount of money that the state has to fund
8 the various agencies?
9 A. (Witness nods head affirmatively.)
10 Q. Is that correct?
11 A. Very much so.
12 Q. Is that very common?
13 A. Annually.
14 Q. Every year this happens?
15 A. Yes, sir.
16 Q. Okay. And you started speaking a
17 little bit about an analysis of critical needs.
18 Is that correct?
19 A. (Witness nods head affirmatively.)
20 Q. What are -- what are the -- withdrawn.
21 Who does the critical needs analysis?
22 A. The critical needs analysis is compiled
23 by the budget analysts from what is presented in
24 the Mississippi budget request documents.
25 Q. Okay. And so would it be fair to say

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1 that there are various budget analysts working on
2 the various divisions' budget requests?
3 A. Yes, sir.
4 Q. And we had talked about Pam Davis as
5 being the one who has been addressing the DHS
6 budget requests in the more recent years,
7 correct?
8 A. Yes, sir.
9 Q. Okay. What has your office concluded
10 were the critical needs of the Division of Family
11 and Children's Services?
12 A. In recent years, we -- the Governor has
13 advocated that the agencies should be lump
14 summed, and insofar as funding, we recommended
15 that all agencies, if possible, be lump summed to
16 have maximum flexibility so that DHS, in the case
17 of having multiple budgets within it, could
18 utilize its funds in whichever budget they needed
19 to in order --
20 Q. And they --
21 A. I'm sorry.
22 Q. Go ahead. You can complete your
23 answer. I thought I cut you off a little bit.
24 A. That's fine.
25 Q. I understand that the -- the executive

17 (Pages 62 to 65)

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1 branch has been advocating for a lump-sum-type
2 budget. And we'll get to the lump-sum issue a
3 little bit later, but my question went more to
4 the critical needs analysis. Has the Office of
5 Budget and Fund Management done a critical needs
6 analysis of DHS and, more specifically, the
7 Division of Family and Children's Services?

8 A. Not apart from their Mississippi budget
9 request.

10 Q. I'm not sure I understand the question,
11 but do you mean not other than what you receive
12 in the form of the DHS budget request package?

13 A. Yes, sir.

14 Q. So to the extent the agency has needs,
15 you would expect to see it in the budget request
16 package, right?

17 A. Yes, sir.

18 Q. And the budget analyst, then, would
19 determine which are really the critical needs?

20 A. Yes, sir.

21 Q. And is the budget analyst looking for
22 things to cut, generally?

23 A. Not generally speaking. In years where
24 revenues were not meeting estimates, budget cuts
25 would be something we would have to review.

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1 Q. Okay. And in years where -- well, I
2 thought that you had testified earlier that it
3 seems like almost every year that budget requests
4 exceed the amount of estimated general funds,
5 correct?

6 A. They do.

7 Q. Okay. So wouldn't the budget analysts
8 have to figure out a way to pare down all the
9 budget requests to bring it in line with the
10 estimated revenue guidance?

11 A. From the Legislative Budget Office
12 standpoint, that is correct, and they are
13 required to utilize or maintain notes of what
14 they are paring down on the budget requests.

15 Q. Okay. So on the -- in the formulation
16 of the executive budget, does the Governor often
17 submit a budget that he is requesting state fund
18 allocations in excess of what your office has
19 determined was the amount of revenues available
20 for the upcoming fiscal year?

21 A. He has to rely upon the same revenue
22 estimate as the joint legislative budget
23 committee.

24 Q. So I think your answer is that the
25 Governor does not submit a budget that's in

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1 excess of the revenue estimates, correct?

2 A. The Governor is permitted to recommend
3 other forms of revenues, but they have to be
4 submitted separate from his executive budget
5 recommendation.

6 BY MR. PISKORA: Could you read back
7 the answer.

8 (Reporter reads back answer.)

9 Q. Okay. So in regard to his executive
10 budget recommendation, doesn't the Governor
11 submit an executive recommendation that is in
12 line with the revenue estimates that were
13 developed by LBO and your office?

14 A. Not revenue estimates developed by us.
15 Revenue estimates emanating and approved by -- or
16 the recommendation of the revenue estimating
17 committee.

18 Q. Okay. Let me try to just close the
19 loop, then. Once the revenue estimating
20 committee has determined what the revenue
21 estimate should be, whether or not your office
22 agrees with that or not, does the Governor then
23 submit a budget that's in line with those
24 estimates?

25 A. He submits an executive budget

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1 recommendation based upon the consensus estimate.

2 Q. And he doesn't submit a budget that's
3 over the amount of those estimates?

4 A. Not his executive budget
5 recommendation, no, sir.

6 Q. Okay. And so when the various budget
7 requests come in and if you were to add up all
8 the dollars that the various agencies are
9 requesting and it's more than the revenue
10 estimate, how does the Governor go about paring
11 down the various requests so that his executive
12 budget is in line with the revenue estimate?

13 A. He reviews -- I say he. His policy
14 advisors review the MBRs and make
15 recommendations.

16 Q. Okay. Is your office at all involved
17 in making any recommendations to the Governor
18 about necessary cuts?

19 A. When you say cuts --

20 Q. Well, I understand your clarification.
21 The -- the budgets that are submitted -- I'm
22 sorry, withdrawn.

23 I think that we got to the point where
24 in most years, the budget requests from the
25 various agencies, if you added them up, would

18 (Pages 66 to 69)

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1 exceed the revenue estimates. Is that correct?
 2 A. That's correct.
 3 Q. Okay. And I'm trying to figure out how
 4 the Governor gets his budget in line with the
 5 revenue estimates. Do you understand?
 6 A. Uh-huh (affirmative).
 7 Q. And some money that is being requested
 8 is not going to be able to be allocated because
 9 there just isn't enough money to go around. Do
 10 you agree?
 11 A. That's correct. Not enough money to go
 12 around to accommodate requests. Revenues which
 13 are above and beyond, if you start in one year
 14 and you have revenue of X and the subsequent
 15 years the revenue of X plus a million, then you
 16 only -- it's just like your checking account.
 17 You only have a million dollars to work with to
 18 divide amongst the requests by the numerous
 19 budgets and agencies.
 20 Q. I think -- I think I understand your
 21 answer, but let me just try and clarify it.
 22 You're saying that, generally, you get what you
 23 got last year and we'll talk about the little
 24 difference of additional funding that you might
 25 be requesting. Is that correct?

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1 A. Any revenue that would be in addition
 2 to prior year would be available to address
 3 multiple agency needs.
 4 Q. I understand that. And multiple
 5 agencies are asking for that additional --
 6 A. That's correct.
 7 Q. And my question is, how is it
 8 determined in the executive budget which agency
 9 gets additional funding?
 10 A. There would be a review of the critical
 11 needs as presented by the agencies and then
 12 whatever revenues above and beyond prior year
 13 would be available to address some, probably not
 14 all of those needs.
 15 Q. I understand your answer. I think
 16 we're getting to it now. Who is doing that
 17 review?
 18 A. The review of the agencies, the
 19 critical needs?
 20 BY MR. PISKORA: Can you go back and
 21 read her last answer.
 22 (Reporter reads back answer.)
 23 Q. Okay. I think I need clarified just a
 24 couple points. I'm not understanding how the
 25 executive budget decides who is getting what

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1 amount of money.
 2 A. It doesn't.
 3 Q. Well, the executive budget has to make
 4 a determination that's ultimately submitted,
 5 correct?
 6 A. It's a recommendation.
 7 Q. Exactly. It's a recommendation.
 8 A. (Witness nods head affirmatively.)
 9 Q. Now, as to that recommendation, that's
 10 what I'm trying to get at. As to the executive
 11 budget recommendation, who is deciding how much
 12 each agency gets in terms of funding?
 13 A. Recommendations are made to the policy
 14 advisors.
 15 Q. Who are the policy advisors?
 16 A. Jim Perry.
 17 Q. Okay. So you mean the Governor's
 18 policy advisors?
 19 A. Yes, sir.
 20 Q. Okay. And recommendations are made by
 21 who?
 22 A. By the Office of Budget and Fund
 23 Management.
 24 Q. Okay. So your office develops
 25 recommendations to the Governor's office's policy

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1 advisors concerning what should be the allocation
 2 of funding in regard to the executive budget
 3 recommendation, correct?
 4 A. What the recommendation should be.
 5 Q. I'm sorry. We're talking about the
 6 recommendation, right?
 7 A. Right. The recommendation is not an
 8 allocation of funding.
 9 Q. Oh, I understand what you're saying.
 10 A. (Witness nods head affirmatively.)
 11 Q. But it -- the recommendation contains
 12 proposed allocations, correct?
 13 A. Yes, sir.
 14 Q. Okay. In regard to the recommendation,
 15 the executive budget recommendation, is it
 16 correct that your office provides guidance and
 17 recommendations to the Governor's policy
 18 advisors?
 19 A. Yes, sir.
 20 Q. All right. And who in your office
 21 makes those recommendations?
 22 A. Generally, I do.
 23 Q. Okay. And what is the basis for your
 24 recommendations?
 25 A. The analysts' review of critical needs.

19 (Pages 70 to 73)

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1 Q. Okay. So would it be fair to say that
2 in each and every year you review, at the very
3 least, the analysts' review of the various
4 agencies' critical needs in regard to your
5 recommendations to the Governor's policy advisors
6 as to what should go into the executive budget
7 recommendation?

8 A. Yes, sir.

9 Q. Okay. And in reviewing the analysts'
10 analysis of the agencies' budget requests, do you
11 see any documents or do you just have a meeting?

12 A. Sometimes both.

13 Q. Okay. And let's take DHS just as an
14 example. Do you speak to the budget analyst as
15 to the amount of funding that DHS is requesting
16 for various line items of their budget request?

17 A. It depends. I don't recollect
18 reviewing major objects or line items for DHS
19 from the analysts.

20 Q. Well, do you ever discuss, in
21 formulating your recommendations to the
22 Governor's policy advisors, the amount of money
23 that DHS would be requesting for salaries?

24 A. Do we ever review that with them? Was
25 that your question? I'm sorry. I didn't

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1 understand.

2 Q. I'm getting to your analysis and
3 recommendations to the Governor's policy
4 advisors. And I'm asking, do you review what DHS
5 is requesting in regard to salaries with your
6 budget analysts prior to --

7 A. Probably so.

8 Q. Okay. And what other budgetary
9 elements do you review with your budget analysts
10 prior to making your recommendations to the
11 Governor's policy advisors?

12 A. We look at what the agency has
13 requested insofar as their critical needs.

14 Q. Okay. And since you're doing this
15 review, can you just tell me what is DHS's
16 critical needs in regard to the Department of
17 Family and Children's Services?

18 A. It's my understanding that they need
19 additional funds to fund positions that -- where
20 the positions have been appropriated, but the
21 funds were not made available to fill the
22 positions.

23 Q. Okay. And how long have you had that
24 understanding?

25 A. Current fiscal year '07; '06, I

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1 believe, that they did not have the funds for the
2 PINs.

3 Q. What about '05?

4 A. '05, DHS was a lump-sum budget.

5 Q. So does that mean that you didn't
6 review their critical needs in regard to
7 additional funding for staffing?

8 A. No, sir. I -- I'm just saying that in
9 '05 they were a lump-sum budget. The legislature
10 gave them lump-sum authority so they could have
11 put every dollar into salaries for Family and
12 Children's Services if they chose.

13 Q. I understand they could have done that
14 in a hypothetical world, but they couldn't do
15 that in a practical world.

16 A. Right.

17 Q. Right. So I'm getting back to the
18 question, in the practical reality of the budget
19 request, even under a lump-sum budget, did you
20 review in 2005 whether or not additional funds
21 should go to DHS for the Division of Family and
22 Children's Services for additional salaries?

23 A. I do not recollect. That was in 2004.
24 I do not recollect that year.

25 Q. Okay. Would it be fair to say that you

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1 understand that the Division of Family and
2 Children's Services is underfunded?

3 A. (Witness nods head affirmatively.) I
4 would say that.

5 Q. Okay. And how -- how many years have
6 they been underfunded to your recollection?

7 A. Insofar as state agencies are
8 concerned, since state agencies, including Family
9 and Children's Services, during the years of
10 revenue shortfalls, most state agencies,
11 including DHS, I believe, will say that they have
12 been underfunded since we had revenue shortfalls.

13 Q. And -- and did the revenue shortfalls
14 start in 2000?

15 A. 2000.

16 Q. Okay. You said that the state agencies
17 would say they're underfunded, but was it the
18 position of your office that those agencies --
19 withdrawn.

20 Was it the position of your office that
21 DHS and, more specifically, DFCS have been
22 underfunded since 2000?

23 A. If you look at the amount requested by
24 the agency versus what the legislature
25 appropriated and if you say that their request is

20 (Pages 74 to 77)

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1 the amount that they needed, then the answer is
2 yes.

3 Q. Okay. So the amount that they
4 requested, you're presuming, is the amount that
5 they need, correct?

6 A. Yes, sir.

7 Q. And so if they got less, then they're
8 underfunded, correct?

9 A. Yes, sir.

10 Q. Okay. In regard to your
11 recommendations to the policy advisors in the
12 Governor's office about formulating the executive
13 budget recommendation, do you ever have any
14 analysis directly from the head of DFCS in regard
15 to figuring out what critical needs are?

16 A. No, sir.

17 Q. And so you're relying entirely on the
18 DHS budget request that has been submitted?

19 A. Yes, sir.

20 Q. And that's a consolidated DHS request,
21 correct?

22 A. The individual programs are submitted
23 by program, and there is a roll-up document, a
24 consolidated document.

25 Q. I'm going to jump back to Exhibit 181

1 you see that?

2 A. Yes, sir.

3 Q. What is that summary document?

4 A. It is the spreadsheet that I referenced
5 earlier which shows the agency -- agencies, state
6 funding, the prior fiscal year and the executive
7 budget recommendation for the fiscal year at hand
8 and includes the Governor's transmittal letter to
9 the legislature.

10 Q. Okay. And so a separate summary
11 document is then prepared for the LBO
12 recommendation?

13 A. Yes, sir.

14 Q. And that would be done outside of your
15 offices, correct?

16 A. Yes, sir. That's done by the
17 Legislative Budget Office for the joint
18 legislative budget committee.

19 Q. Okay. And who prepares the summary
20 document for the executive budget recommendation?

21 A. We work with the Governor's office to
22 prepare the spreadsheet and we also work with
23 them to prepare the transmittal letter.

24 Generally speaking, Mr. Perry.

25 Q. Mr. Perry at the Governor's office?

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1 again.

2 A. Okay.

3 Q. We were talking about the second
4 paragraph, the first sentence which was, When the
5 agencies' budget requests are submitted, both LBO
6 and DFA review the requests.

7 A. Uh-huh (affirmative).

8 Q. Remember that?

9 A. Yes, sir.

10 Q. And I guess my question to you is, do
11 you review the requests in conjunction with the
12 LBO or separately?

13 A. Separately.

14 Q. Okay. And then it goes on a few
15 sentences later, The executive and legislative
16 offices develop their own recommendations for the
17 amounts to be appropriated to each agency within
18 the estimated available funds. Do you see that?

19 A. Yes, sir.

20 Q. That's correct?

21 A. Yes, sir.

22 Q. That's accurate?

23 A. Yes, sir.

24 Q. Okay. It goes on, A summary document
25 is then prepared of these recommendations. Do

1 A. Yes, sir.

2 Q. And would you have copies of these --
3 these letters and spreadsheets?

4 A. Yes, sir.

5 Q. And do you call them anything in
6 particular other than the spreadsheet?

7 A. Executive budget recommendation.

8 Q. Summary?

9 A. Uhm --

10 Q. Or is it the whole thing attached?

11 A. The spreadsheet is actually entitled
12 "Executive Budget Recommendation."

13 Q. Okay. And who in your offices would
14 maintain these documents?

15 A. All of us.

16 Q. Everyone keeps them?

17 A. Yes, sir.

18 Q. Fair enough.

19 BY MR. PISKORA: Just put on the record
20 that we would request that those documents be
21 produced for 2000 to the present.

22 Q. And to the extent that the Legislative
23 Budget Office prepares a separate and distinct
24 recommendation, does this summary document do any
25 analysis comparing the two different budgets?

21 (Pages 78 to 81)

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1 they go about getting the revision?
 2 A. If they were doing it within the limits
 3 prescribed in general law or the appropriation
 4 bill, then they would submit either a transfer
 5 form -- well, you're talking about a transfer --
 6 a transfer form and a new form Z-1 to our office.
 7 Q. Okay. And how does DHS go about
 8 requesting a deficit allocation?
 9 A. They request that by formulating a
 10 letter to the chairman of the appropriations
 11 committees requesting additional funding and
 12 justifying what it's for, but it's a request of
 13 the legislature.
 14 Q. Okay. In regard to the budgets, the
 15 recommendations and in regard to what the
 16 agencies and the divisions are requesting,
 17 there's the state general fund component and then
 18 there's also this special fund component,
 19 correct?
 20 A. Uh-huh (affirmative).
 21 Q. What, if any, review do you do of the
 22 special fund component?
 23 A. We look at all components in the
 24 budget.
 25 Q. Okay. And would it be fair to say that

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1 when you get a DHS budget request that includes a
 2 special fund component that it's your
 3 understanding that the division would be able to
 4 realize that amount of special funds?
 5 A. It's our understanding from the
 6 Mississippi budget request -- Exhibit 164 is an
 7 example --
 8 Q. Yeah.
 9 A. -- that when the agency prepares its
 10 special funds detail -- that's page 3 or
 11 DHS115663 -- that they are showing insofar as
 12 both federal and nonfederal other special funds
 13 their requested revenues for the year -- in this
 14 case, FY '07 and that is their estimate.
 15 Q. But do you understand their estimate to
 16 be the amount that they can realize?
 17 A. It's our understanding that that is
 18 their estimate of revenues for FY '07.
 19 Q. Okay. And have you ever -- withdraw
 20 the question.
 21 In your analysis of the DHS budget
 22 request and in your analysis of the critical
 23 needs evaluation, have you ever contacted DHS to
 24 discuss whether or not the estimates of the
 25 special funding levels were realizable?

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1 A. No, sir, because we assume that when
 2 they prepare that special funds detail that they
 3 are projecting the revenues that they anticipate
 4 for that fiscal year. That is their best
 5 estimate.
 6 Q. Fair enough. So you were talking about
 7 page 3, DHS115663?
 8 A. Uh-huh (affirmative).
 9 Q. And I guess the first one is social
 10 services block grant. Do you see that, Title 20?
 11 A. Yes, sir.
 12 Q. Have you ever seen any analysis by DHS
 13 showing how they would realize the estimates that
 14 are provided here in Column 2?
 15 (Witness examines document.)
 16 Q. I'll rephrase the question. You see
 17 that if we even just take the first one, social
 18 services block grant --
 19 A. Uh-huh (affirmative).
 20 Q. -- it has an increase between the
 21 actual fiscal year 2005 and the estimated fiscal
 22 year 2006 and it's approximately 600,000. Do you
 23 see that?
 24 A. Yes, sir.
 25 Q. My question is, have you ever seen any

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1 analysis of how DHS has calculated that they
 2 would get approximately 600,000 more in Title 20
 3 social services block grant funding?
 4 A. No, sir.
 5 Q. Okay. Looking at this same exhibit
 6 which is Exhibit 164, if you go to the third page
 7 in, which is page 1, really, it's a spreadsheet
 8 that shows various columns in the budgeting line
 9 items and it has actual expenses, 2005; estimated
 10 expenses, 2006; and requested for 2007. Do you
 11 see that?
 12 A. Yes, sir.
 13 Q. Do you ever compare what was the actual
 14 expenses with the earlier years, what DHS said
 15 that they would be able to draw down in special
 16 funds?
 17 A. No, sir.
 18 Q. Okay. We did discuss very early in the
 19 morning that one of the things that your office
 20 does in addition to the preparation of the
 21 budgets is then it monitors the expenditures. Is
 22 that correct?
 23 A. Uh-huh (affirmative).
 24 Q. And again, is that your particular
 25 office that does that?

27 (Pages 102 to 105)

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1 prudent thing anyway.

2 Q. With respect to state contracts,
3 whether it be for leases or anything else, are
4 you familiar whether the state requires a
5 provision in there to opt out if the legislature
6 decides not to appropriate funds?

7 A. Yes, sir. That's very standard.

8 Q. And why is that provision there?

9 A. Because budgeting is done on a
10 year-by-year basis, and anything that encompasses
11 more than one year, you really don't know what
12 the future years are going to be, so that
13 funding-out clause is necessary.

14 BY MR. FORTENBERRY: That's all I have.

15 REEXAMINATION BY MR. PISKORA:

16 Q. I just have a few more questions on
17 redirect. I think that you had testified earlier
18 about the special funds. Do you remember that?

19 A. (Witness nods head affirmatively.)

20 Q. And you clarified a little bit on
21 direct here. And my question to you is, we were
22 looking at the special fund detail of the budget
23 request. Do you remember that?

24 A. Uh-huh (affirmative).

25 Q. And I had asked you a question of

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1 whether or not you had made any sort of analysis
2 of whether or not this special fund -- the amount
3 of special fund set forth on the special fund
4 detail were realized. Do you remember that?

5 A. Uh-huh (affirmative).

6 Q. And I think you testified that you rely
7 on the agencies to provide you that information,
8 correct?

9 A. Yes, sir.

10 Q. Okay. In determining your -- doing
11 your critical needs analysis, do you take into
12 account the amount of special funds that are set
13 forth in the budget request in combination with
14 the general funds?

15 A. In looking at the critical needs, we
16 do.

17 Q. And isn't it true that if you lose a
18 certain amount of general funds, it would be --
19 make it harder, in essence, to get the special
20 funds -- withdrawn. Withdrawn.

21 Isn't it true that if you have a cut to
22 your general funds that, in essence, you're going
23 to be losing out on the opportunity to get a
24 special fund federal match?

25 A. If those state general funds or general

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1 fund equivalents are used for matching purposes,
2 then if you have a cut in general funds, it's
3 possible that you would lose some federal funds.

4 Q. Right. And don't most of the federal
5 programs match it at least one to one or
6 sometimes even better than one to one?

7 A. I don't know about most, but generally,
8 you know, there's a reasonable match.

9 Q. Okay. And then I think you testified a
10 little bit about that, you know, policy decisions
11 have to be made in regard to the limited
12 resources that Mississippi has in regard to their
13 state general funds.

14 A. (Witness nods head affirmatively.)

15 Q. And my question to you is, isn't
16 that -- an analysis of the various agencies
17 throughout the state and what they're requesting
18 part of what your office does prior to the
19 submission of the executive budget
20 recommendation?

21 A. I'm sorry. Could you repeat that one
22 more time.

23 Q. I think that you said that there were
24 agency heads camped out. There are a limited
25 amount of funds. Everybody's fighting over a

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1 fixed pot of limited state general funds. Am I
2 getting the character of it right?

3 A. Uh-huh (affirmative).

4 Q. And my question to you is, well, isn't
5 the division of this limited pot of state general
6 funds part of your recommendations to the
7 Governor's policy advisors prior to the
8 submission of the Governor's budget
9 recommendation?

10 A. Yes. We made recommendations about --
11 based upon the initial estimate that he publishes
12 in November and the legislature publishes in
13 December. However, between the time of the
14 original revenue estimate and the time the
15 legislature convenes, things can change and the
16 pot can change.

17 Q. I understand that. But just in regard
18 to what agencies are going to get what levels of
19 funding, you've taken into account the nature of
20 the agency and their critical needs, correct?

21 A. Yes, sir.

22 Q. Okay. So to the extent that the state
23 is operating under some fixed amount of general
24 funds -- which they are every year, and it's just
25 an estimate -- you've taken into account the

40 (Pages 154 to 157)